

**ANDREWS  
KURTH**

Andrews Kurth LLP  
1350 I Street, NW  
Suite 1100  
Washington, DC 20005  
+1.202.662.2700 Phone  
+1.202.662.2739 Fax  
andrewskurth.com

Matthew Dowd  
+1.202.662.2701 Phone  
matthewdowd@andrewskurth.com

July 21, 2015

**VIA ECF**

Daniel E. O'Toole  
Circuit Executive and Clerk of the Court  
U.S. Court of Appeals for the Federal Circuit  
717 Madison Place, N.W.  
Washington, D.C. 20439

Re: *Retirement Capital Access Management Co. LLC v. U.S. Bancorp*,  
Appeal No. 2015-1039 (Fed. Cir.)

Dear Mr. O'Toole:

Appellee U.S. Bancorp submits this letter, under Federal Rule of Appellate Procedure 28(j) and Federal Circuit Rule 28(i), to notify the Court of relevant supplemental authority.

First, this Court recently decided *Versata Development Group, Inc. v. SAP America, Inc.*, No. 14-1194 (Fed. Cir. July 9, 2015) (“*Versata I*”), and *Versata Development Group, Inc. v. Lee*, No. 14-1145 (Fed. Cir. July 13, 2015) (“*Versata II*”). These decisions reject Appellant Retirement Capital Access Management’s position that “Section 101 is not a valid ground for CBM review.” Appellant’s Br. at 9.

Second, precedent issued after briefing supports the PTAB’s decision that the claims-at-issue here do not satisfy 35 U.S.C. § 101. See Appellant’s Br. 18-43. In *OIP Technologies, Inc. v. Amazon.com, Inc.*, No. 12-1696 (Fed. Cir. June 11, 2015), the Court affirmed a judgment on the pleadings that a “method of pricing a product for sale,” *i.e.*, “offer-based price optimization,” was not patent-eligible under § 101. “This concept of ‘offer based pricing’ is similar to other ‘fundamental economic concepts’ found to be abstract ideas by the Supreme Court and [the Federal Circuit].” *Id.*, slip op. at 6.

In *Internet Patents Corp. v. Active Network, Inc.*, No. 14-1048 *et al.* (Fed. Cir. June 23, 2015), the Court affirmed the invalidation of a claims to a “method of providing an intelligent user interface to an online application.” The claims covered abstract ideas. *Id.*, slip op. at 10 (“We agree . . . that the character of the claimed invention is an abstract idea: the idea of retaining information in the navigation of online forms.”). Similarly, in *Intellectual Ventures I LLC v. Capital One Bank (USA), National Association*, No. 14-1506, slip op. at 7 (Fed. Cir. July 6, 2015), the Court

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invalidated claims “directed to an abstract idea: tracking financial transactions to determine whether they exceed a pre-set spending limit (*i.e.*, budgeting).” Likewise, in *Versata I*, the court affirmed the PTAB’s § 101 decision because “[u]sing organizational and product group hierarchies to determine a price is an abstract idea that has no particular concrete or tangible form or application.” *Versata I*, slip op. at 51.

Respectfully submitted,

*/s/ Matthew J. Dowd*

Matthew J. Dowd

Counsel for Appellee U.S. Bancorp

cc: Counsel of Record (via ECF)

**CERTIFICATE OF SERVICE**

I hereby certify that on this day, July 21, 2015, the foregoing LETTER was electronically filed, and therefore electronically served, via the court's ECF/CM system on all counsel of record.

*/s/ Matthew J. Dowd*

Matthew J. Dowd

Counsel for Appellee U.S. Bancorp